



*Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals*

Matthew Zuker, Chairman  
James S. DeCelle, Vice Chairman  
Craig W. Hiltz, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member  
Timothy C. Foley, Associate Member

April 27, 2016

**DECISION - BOARD OF APPEALS CASE NO. 02-16**

**APPLICANT:**

**Cellco Partnership d/b/a Verizon Wireless**

**LOCATION OF PROPERTY INVOLVED:**

(Approximately) 85 Route 1, Walpole, MA and shown on the Assessors Map Lot 29/11, Zoning District Highway Business

**APPLICATION FOR:**

A **Special Permit** under Section 10-F of the Zoning Bylaw to allow the installation of a wireless communications facility on an existing pole situated at (approximately) 85 Route 1.

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On April 13, 2016, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information as to the granting of a **Special Permit**. Said public hearing was closed and voted on April 13, 2016.

The following members were present and voting:

Matthew Zuker, Chairman  
James S. DeCelle, Vice Chairman  
Susanne Murphy  
Mary Jane Coffey, Member

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The property in question contains an existing pole and is located in the Highway Business Zoning District.

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A motion was made by Susanne Murphy and seconded by Mary Jane Coffey to grant a Special Permit from Section 10-F of the Zoning Bylaws to allow the installation of a wireless communications facility with respect to property located at (approximately) 85 Route 1, Walpole, MA.

The vote was **(4-0-0) in favor** (Zuker, DeCelle, Murphy and Coffey voting), therefore the **Request for a Special Permit** is hereby **GRANTED**.

### REASONS FOR DECISION:

- 1) The applicant demonstrated that the installation is on an existing pole and the screening will blend into the existing environment.
- 2) As per a letter dated March 15, 2016 from Deputy Fire Chief Michael Laracy, it was determined per a site visit that the utility pole is relatively new and is structurally sound to support the additional wireless communications equipment.
- 3) As per a letter dated March 15, 2016 from Deputy Fire Chief Michael Laracy, the fire department confirmed that this area of town around the Walpole Mall does experience bad cell service. Similar to cell service, the fire department had required that Walpole Mall install a bi-directional emergency radio amplifier receiver due to the poor reception of fire department portable radios in this area, including Siemens and the League School. Therefore, at this time they support the Special Permit request due to the benefits to the public safety agencies in town.
- 4) The granting of the Special Permit conforms to the criteria set forth in Section 10-D of the Town of Walpole Zoning Bylaw.

### CONDITIONS:

1. As per a letter dated March 16, 2016 from Margaret Walker, Town Engineer, the applicant may need to obtain permission from MassDOT especially if any underground excavation is needed or required as it appears the pole is located within the right-of-way of Route 1, which is a State Highway Layout
2. All work shall be performed as per plans entitled "Walpole Mall MA CRAN01 by Chappell Engineering Associates, LLC, dated March 30, 2015. Said plans consist of three (3) pages.

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**Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.**

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

\* \* \* \* \*

Said Special Permits are granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

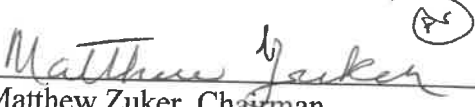
*"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."*

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

*"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."*

MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF c 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS

  
Matthew Zuker, Chairman

cc: Town Clerk                      Engineering                      Planning Board  
Board of Selectmen              Building Inspector              Conservation Commission

This decision was made on April 13, 2016 and filed with the Town Clerk on April 27, 2016.